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Viewing cable 09PANAMA692, MARTINELLI PRESSURES THE JUSTICE SYSTEM TO SUPPORT

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Reference ID	Created	Released	Classification	Origin
09PANAMA692	2009-09-16 19:38	2011-08-30 01:44	SECRET//NOFORN	Embassy Panama

Appears in these articles:

<http://especial.prensa.com/wikileaks/category/cables/>

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S E C R E T PANAMA 000692

NOFORN
SIPDIS

REF: A. PANAMA 680

Classified By: Ambassador Barbara J. Stephenson for reasons 1.4 (b) and (d)

Summary

¶1. (S//NF) Panamanian Supreme Court Justice Adan Arjona told poloffs August 26 that President Martinelli personally called each of the nine justices of the Court to pressure them to vote in favor of reopening a corruption case in which over 30 members of the Revolutionary Democratic Party (PRD) are implicated. Arjona called this "unprecedented" interference with the judiciary. Arjona said Martinelli also asked him to support the government's moves to change the contract terms on electric generating companies, including the U.S. company AES. Arjona said the Court would not defend these companies against such pressure, and that they would have to go to their embassies. Finally, Arjona said Martinelli told him he was going to fire Attorney General Ana Matilde Gomez, then denied to Arjona five days later that he had any problem with Gomez. Vice President and Foreign Minister Juan Carlos Varela told the Ambassador September 4 that the government had decided to stop pressuring Gomez to resign. End Summary

Judicial Interference

¶2. (C//NF) On July 22 the Supreme Court (CSJ) decided to reopen the long stalled CEMIS case (ref A), implicating two CSJ justices and much of the current leadership of the PRD in a bribery scandal. In a meeting with poloffs August 26, CSJ Justice Adan Arjona revealed that prior to the CSJ vote, Martinelli had called each of the CSJ Justices personally, and pressed for them to reopen the case. Arjona said that this was unprecedented, and that Martinelli was acting more like a king than a democratic president. He added that given Panama's weak institutions, it would be very hard to stop him from abusing his authority in this way. Arjona told poloffs that Martinelli was defending some of his actions by telling people he was acting on instructions from the U.S. embassy. Arjona advised that we reach out to people like VP/FM Juan Carlos Varela, Minister of Economy and Finance Alberto Vallarino, and Minister of the Presidency Jimmy Papadimitriu, because they were the only ones who could influence Martinelli. Everyone else, according to Arjona, was telling Martinelli what he wanted to hear in the hopes of ingratiating themselves to him.

¶3. (C//NF) Arjona described a meeting he had with Martinelli on August 24. Arjona's ten year term on the CSJ Third Chamber (which hears cases against the government) expires at the end of this year, and he is anxious to be reappointed. According to Arjona, Martinelli asked for Arjona's support on the "electricity case," because the case would go to the Third Chamber if U.S. company AES challenged the GOP's unilateral changes to the contract terms. Arjona reported that he assured Martinelli of his support, noting to poloffs that the other members of the Chamber were so weak and corrupt that Martinelli would get what he wanted anyway. (Note: Arjona and many other sources have indicated that the other two members of the Third Chamber, Winston Spadafora in particular, and Victor Benevides to a lesser degree, are corrupt. Spadafora had his U.S. visa revoked for his alleged involvement in illegal trafficking in people. End Note.) Arjona said that international companies whose contractual rights were violated would have to ask their Embassies for support in negotiating with the GOP, because the CSJ was not going to defy Martinelli. Arjona described Martinelli as "a Chavez" who did not want anyone to contradict him, and wanted

to be free to do as he pleased. Arjona predicted that the measures Martinelli was taking to lower the cost of electricity would end up getting Panama sued in The Hague for breach of contract.

A/G Next?

¶4. (C//NF) In recent weeks the GOP's Anti-Corruption Coordinator, Martinelli's first cousin Fernando Nunez-Fabregas, has attacked Attorney General Ana Matilde Gomez for failing to prosecute high level corruption. The dispute stems from powers Nunez has been given so his office can investigate claims of corruption. Gomez has argued that these new powers are a violation of her writ as Attorney General. This has fueled speculation that Martinelli wants Gomez to step down so he can appoint his own A/G (Note: The A/G is named by the President, with the approval of the Assembly, to a ten year term, which does not coincide with the election cycle. Gomez was appointed by former president Martin Torrijos. End Note.) CSJ Arjona told poloffs that Martinelli said he was going to "get rid of" Gomez, and offered Arjona the job. However, Arjona later reported to DEAFSN that he spoke with Martinelli again on August 29, and Martinelli complained that the papers were falsely reporting he wanted to remove Gomez, then claimed he had no problem with the A/G. Arjona described Martinelli as "delirious" and "incoherent" as he denied something he had told him five days earlier.

¶5. (C//NF) PRD Deputy Leandro Avila told poloff September 3 that the Martinelli administration was putting political pressure on Gomez to investigate and prosecute high level PRD members. Referring to the recent jailing of former Minister of Education Blgis Castro on charges of corruption, Avila said that it was totally legitimate to investigate him, but that the decision to jail him was the result of political pressure from the government, as jailing a former minister was a powerful symbol that its anti-corruption drive was for real. He noted that Nunez' office was now looking at the money the Torrijos administration made available to PRD Deputies to carry out public works projects in their districts from the Social Investment Fund (FIS) as a possible case of corruption. Avila said that this has been common practice for years, and that claiming it was an example of corruption widened the net of possible "corruption" cases so much that it began to look a lot like political persecution. He said that Gomez was a tough and independent figure, and that he did not believe she would allow this to take place. He said that she could become a powerful independent balancing force to control the Executive.

Safe For Now

¶6. (C//NF) On September 4 VP/FM Juan Carlos Varela -- unprompted -- told the Ambassador over lunch that the GOP was no longer trying to remove Gomez from office, as Martinelli had realized that doing so would damage Panama's image. He said the President and Gomez were now going to focus on rooting out police corruption.

Comment

¶7. (S//NF) Arjona is widely regarded among Panama's civil society as a champion of judicial independence and probity. His reports of judicial interference by Martinelli are extremely disturbing. Even more disturbing is Arjona's assumption that he cannot possibly be re-appointed unless he indicates complete loyalty to Martinelli, even though Arjona has been a very successful justice. His reports of Martinelli's inconsistent stories and mercurial nature track with what Post has observed. With regard to the A/G, while she has not been very effective, she heads the only truly independent institution in Panama. Post will report

septel on other institutions in Panama, and our proposed strategy moving forward.

STEPHENSON